

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Joseph Anthony Carpenter,)	
)	ORDER
Petitioner,)	
)	
vs.)	
)	
Colby Braun, Warden of the)	
North Dakota State Penitentiary,)	Case No. 1:13-cv-153
)	
Respondent.)	

On December 13, 2013, the petitioner, Joseph Anthony Carpenter (“Carpenter”), filed a petition for a writ of habeas corpus pursuant to 42 U.S.C. § 2254. On May 16, 2014, he filed an amended habeas petition. On May 20, 2014, the court issued an order that (1) directed respondent to respond to the amended habeas petition, and (2) instructed the Clerk’s office to serve respondent with copies of the original and amended petitions in accordance with Fed. R. Civ. P. 4.

It has been brought to the court’s attention that the respondent has yet to file a response. Upon examination of the record, this order is issued to clear up problems that exist with respect to the actions taken to date and subsequent developments.

First, Colby Braun was recently named Warden of the North Dakota State Penitentiary. Consequently, the court *sua sponte* **ORDERS** that he be substituted as the party respondent and that this case’s caption be amended accordingly. See e.g., Crain v. Cooper, No. 1:09-cv-216, 2011 WL 4596112, at *3 (W.D.N.C. Sept. 30, 2011) (the court on its own initiative amended the petition to name the proper respondent). Second, it appears that respondent may not have been properly served in his official capacity and, in any event, has not been served in the manner customarily followed in this district with respect to § 2254 petitions, which includes service upon the State’s Attorney

General. To get this matter back on track and to avoid any confusion going forward, the Clerk's office is directed to serve copies of Carpenter's petitions on respondent in care of the North Dakota Attorney General. The court further **ORDERS** that respondent shall file a response to Carpenter's petitions by September 1, 2014.

Dated this 20th day of August, 2014.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court